

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 26, 2009

D055678 City of San Diego v. Workers Compensation Appeals Board and Sandra Smullen

The petition is denied.

D055252 In re Marriage of Mapp

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D052612 Raffesberger et al. v. Lesser

Upon written request filed by appellants Ray Raffesberger and Glenn Raffesberger, the appeal is dismissed and the remittitur is ordered to issue immediately.

D055921 Yoon v. Schwilk

Pursuant to California Rules of Court, rule 8.140, the appeal filed September 11, 2009, is dismissed for appellant's failure to timely designate the record.

D055993 In re Thomas on Habeas Corpus

Keith Thomas states that he is representing himself in two criminal cases and that he is in the custody of the San Diego County Sheriff's Department. Thomas claims that the Sheriff's Department is not providing him with adequate services to prepare his defense. He seeks "extraordinary relief." Thomas does not state that he has sought relief in the trial court. This is a matter that is appropriately directed to the superior court in the first instance. (See *In re Steele* (2004) 32 Cal.4th 682, 692.)

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

Clerk: D. Moore

D054440 Imperial Asset Management, LLC v. Matthews Land, Inc.

Cause called on merits. William Henry Parish, Esq. argued telephonically for appellant, Matthews Land. Felix Lebron, Esq. argued for respondent, Imperial Asset. Daniel A. Platt, Esq. argued for respondent, Westmount Properties. Mr. Platt replied. Mr. Lebron replied. Cause submitted.

Court adjourned at 9:33 a.m.

D056070 Meyer v. Superior Court of San Diego County/People

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 26, 2009 (Continued)

D055841 In re Sherman on Habeas Corpus
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 27, 2009

D054920 In re A. Z., a Juvenile

The opinion filed October 1, 2009, is modified. There is no change in judgment. The petition for rehearing is denied. Justices McConnell and Huffman concur in the denial; Justice McIntyre would grant.

D053104 People v. Almieiro

Almieiro's prison prior enhancement is stricken rather than stayed. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the modification and to also correct the abstract of judgment as noted in this opinion. The court is to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. Huffman, J.; We Concur: McConnell, P.J., McDonald, J.

D053743 Rivkin v. Kennerson & Grant, LLP et al.

The petition for rehearing is denied.

D054830 In re Calvin P. et al., Juveniles

The opinion filed October 8, 2009, is ordered certified for publication.

D053185 People v. Swain

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.

D056105 In re George on Habeas Corpus

The petition is denied.

D055864 In re Barlow on Habeas Corpus

The petition is denied.

D056099 Allen v. Superior Court of Imperial County/Reilly

The petition is denied.

D056100 Orlosky v. Superior Court of San Diego County/Monge

The petition is denied.

D055880 Shank on Habeas Corpus

The petition is denied.

D056039 Caldwell on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 28, 2009

D056071 Learn Explore Achieve and Discover, Inc. v. The Superior Court of San Diego County/California Group Associates, Inc.

The petition is denied.

D055485 In re I.E., a Juvenile

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed.

D055466 In re Ian S., a Juvenile

The appeal is dismissed. Haller, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D053653 People v. Wadel

The judgment is affirmed. Irion, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D054608 People v. Booker

The judgment is reversed and the matter is remanded. After the issuance of the remittitur, the trial court shall conduct a Marsden hearing and if the Marsden motion is granted, the trial court shall appoint new counsel to fully investigate and present a new trial motion. If the Marsden motion is denied or a motion for new trial is not filed or the new trial motion is denied, the judgment and sentence previously imposed, as modified herein, shall be reinstated. McIntyre, J.; We Concur: McConnell, P.J., Nares, J.

D054425 Fuselier v. Bartenbach et al.

The judgment is affirmed. Defendants are to recover their costs on appeal. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

D054616 People v. Kurz

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D054962 People v. Ochoa

Judgment of conviction affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

D055379 People v. Woods

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 28, 2009 (Continued)

**D055789 Ericka W. v. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned.
The case is dismissed.

D056107 People v. Superior Court of Imperial County/Cole

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 29, 2009

D053874 People v. Jones

The judgment is reversed as to count 4, attempted forcible rape, and the matter is remanded to the trial court to strike this count. In all other respects, the judgment is affirmed.
McConnell, P.J.; We Concur: Benke, J., Nares, J.

D053580 Sycamore Ridge Apartments, LLC v. Naumann et al.

The petition for rehearing is denied.

D054017 Kenny et al. v. North County Ford et al.

The appeal is dismissed as moot. Defendants' request for sanctions is denied. Defendants shall recover their costs on appeal. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

D053234 National Continental Insurance Company v. National Union Fire Insurance Company of Pittsburgh, PA.

The judgment is affirmed. NCIC is entitled to costs on appeal. McDonald, J.;
We Concur: McConnell, P.J., Huffman, J.

D053107 People v. Ancrum

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

D056108 Zadeh v. Superior Court of San Diego County/Volen

The petition is denied.

D055829 Walgreen Company v. Superior Court of San Diego County/Garcia et al.

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 30, 2009

D055381 People v. Ottombrino

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.360(c)(5)(A). The appeal is dismissed.

D056874 In re Kaitlin S. et al., Juveniles

We affirm the orders. Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

D054355 Pineda v. Williams-Sonoma Stores, Inc.

The opinion filed October 8, 2009, is modified. There is no change in judgment.

D056077 People v. Superior Court of San Diego County/Rodriguez

The petition is denied.

D056121 Guadarrama v. Superior Court of Imperial County/People

The petition is denied.

D055919 Goodfellow v. Superior Court of San Diego County/Merrill et al.

The petition is denied.

D054957 Eplus Group, Inc. v. Banc of American Leasing & Capital, LLC

The Court has read and considered the letter briefs filed by both parties in response to this Court's October 14, 2009, order. The parties are in agreement the instant appeal has been rendered premature as a result of this court's disposition of *Eplus Group, Inc. v. Banc of America Leasing & Capital, LLC*, D054086, filed September 21, 2009, reversing the judgment of dismissal in favor of Banc of America Leasing & Capital, LLC. Therefore the above-titled appeal is dismissed. Each party shall bear its own costs on appeal.

D055793 In re Barton on Habeas Corpus

The petition is denied.